

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

HIGHLAND MANOR APARTMENTS, LLC,
and DE MATTHEIS INVESTMENTS
LIMITED LIABILITY COMPANY,

Plaintiffs,

v.

THE TRAVELERS INDEMNITY
COMPANY,

Defendant.

Civil Action No.: _____

Removed from:

Superior Court of New Jersey
Law Division – Middlesex

Docket No.: MID-L-1487-24

NOTICE OF REMOVAL

TO: Clerk of the Court
United States District Court
District of New Jersey
Martin Luther King Building &
U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102

Adam J. Sklar, Esq.
COLE SCHOTZ P.C.
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602
(201) 489-3000
*Attorneys for Plaintiffs,
Highland Manor Apartments, LLC and
De Mattheis Investments LLC*

PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant The Travelers Indemnity Company (“Travelers”), by its undersigned attorneys, Finazzo Cossolini O’Leary Meola & Hager, LLC, hereby removes the above-captioned civil action, and all claims and causes of action therein, from the Superior Court of New Jersey, Law Division, Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey, to the United

States District Court for the District of New Jersey. The grounds for removal are as follows:

1. Plaintiffs commenced an action seeking damages against Travelers in the Superior Court of New Jersey, Law Division, Middlesex County, by filing a Complaint on March 6, 2024. True and complete copies of all process, pleadings, and orders received by Travelers in the state court action, consisting at this time of the Complaint, Civil Action Summon, and Track Assignment Notice, are attached hereto as **Exhibit A**.

2. Service of the Summons and Complaint was effectuated on Travelers on March 11, 2024, by delivery to the State of New Jersey, Department of Banking and Insurance, which is authorized to accept service of process on behalf of Travelers.

3. The Complaint asserts claims for breach of contract and bad faith, alleging that an insurance policy issued by Travelers to Plaintiffs provides coverage for claimed damage to Plaintiffs' property.

4. The Complaint does not allege a monetary value upon which Travelers could ascertain whether the amount-in-controversy requirement was met for diversity purposes and it was not until a response was received from Plaintiffs' counsel on April 10, 2024, that Travelers first became aware that Plaintiffs' alleged damages were in excess of \$75,000. A true and complete copy of the April 10, 2024 email exchange between counsel is attached as **Exhibit B**.

5. The April 10, 2024 correspondence from Plaintiffs' counsel constitutes the amended pleading, motion, order, or other paper from which Travelers could first ascertain that Plaintiffs' claim exceeded \$75,000 and, thus, that the amount in dispute was sufficient for this Court's jurisdiction.

6. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b)(3) because, as detailed herein, it is filed within 30 days of April 10, 2024, the date on which Travelers received a

paper from which it could be first ascertained that the case is one which is removable.

7. This is a civil action of which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court by Travelers pursuant to the provisions of 28 U.S.C. § 1441, in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

8. According to Plaintiffs' Complaint, Plaintiff Highland Manor Apartments, LLC, is a limited liability company organized and existing under and by virtue of the laws of the State of New Jersey, with its principal place of business located at 70 Bloomfield Avenue, Pine Brook, New Jersey 07058. *See* Exh. A, Complaint, ¶ 5. In addition, per the representation of Plaintiffs' counsel communicated on April 10, 2024 and upon information and belief, the member(s) of Plaintiff Highland Manor Apartments, LLC are also citizens of New Jersey. Accordingly, for the purposes of diversity jurisdiction, Plaintiff, Highland Manor Apartments, LLC, is a citizen of the State of New Jersey.

9. According to Plaintiffs' Complaint, Plaintiff De Mattheis Investments Limited Liability Company is a limited liability company organized and existing under and by virtue of the laws of the State of New Jersey, with its principal place of business located at 70 Bloomfield Avenue, Pine Brook, New Jersey 07058. *See* Exh. A, Complaint, ¶ 5. In addition, upon information and belief, the sole member of Plaintiff De Mattheis Investments Limited Liability Company is Mark S. DeMattheis and at all relevant times, Mark S. DeMattheis was a resident of the State of New Jersey. Accordingly, for the purposes of diversity jurisdiction, Plaintiff, De Mattheis Investments Limited Liability Company, is a citizen of the State of New Jersey.

10. Travelers is a company organized under the laws of the State of Connecticut with its principal place of business located at One Tower Square, MS-6, Hartford, Connecticut.

Accordingly, for the purposes of diversity jurisdiction, Travelers is a citizen of the State of Connecticut.

11. Accordingly, there is complete diversity of citizenship between the parties hereto, thereby satisfying the diversity of citizenship requirement of 28 U.S.C. § 1332.

12. 28 U.S.C. § 1446 contains provisions regarding the time for removal where it is not clear from the initial pleading whether grounds for removal exist. Specifically, the statute provides that “a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order *or other paper* from which it may first be ascertained that the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3) (emphasis added).

13. Removal is timely here because Travelers first became aware of the basis for removal (confirmation regarding Plaintiffs’ damage claim and citizenship) on April 10, 2024, including that Plaintiffs’ alleged damages exceed \$75,000, exclusive of interest and costs. *See Exhibit B*. Accordingly, the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs, thereby satisfying the amount in controversy requirement of 28 U.S.C. § 1332, and the notice of removal was timely filed within 30 days thereof pursuant to 28 U.S.C. § 1446(b)(3).

14. Travelers will promptly serve a copy of this Notice of Removal on counsel for Plaintiffs, and will file a copy of this Notice of Removal with the Clerk of the Superior Court of the State of New Jersey, Middlesex County, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendant The Travelers Indemnity Company, under 28 U.S.C. §§ 1332, 1441 and 1446, removes this action in its entirety from the Superior Court of New Jersey, Law Division, Middlesex County, to the United States District Court for the District of New Jersey.

Dated: April 12, 2024

**FINAZZO COSSOLINI O'LEARY
MEOLA & HAGER, LLC**

By: /s/ Rachel R. Hager

RACHEL R. HAGER, ESQ.
67 East Park Place, Suite 901
Morristown, New Jersey 0796
(973) 343-4960

rachel.hager@finazzolaw.com

Attorneys for Defendant

The Travelers Indemnity Company

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I certify that the subject matter now before this Court is not part of any other action pending in any Court or of any pending arbitration or administrative proceeding, except the Middlesex County Superior Court Law Division upon which this removal application is based (MID-L-1487-24).

Dated: April 12, 2024

**FINAZZO COSSOLINI O'LEARY
MEOLA & HAGER, LLC**

By: /s/ Rachel R. Hager

RACHEL R. HAGER, ESQ.

67 East Park Place, Suite 901

Morristown, New Jersey 0796

(973) 343-4960

rachel.hager@finazzolaw.com

Attorneys for Defendant

The Travelers Indemnity Company

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April 2024, I electronically filed the enclosed Notice of Removal and attached exhibits through the Court's CM/ECF filing system, and one copy of Defendant The Travelers Indemnity Company's Notice of Removal, and attached exhibits, and Certificate of Service, was sent via e-mail to the following counsel of record:

Adam J. Sklar, Esq.
COLE SCHOTZ P.C.
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602
(201) 489-3000
asklar@coleschotz.com
*Attorneys for Plaintiffs,
Highland Manor Apartments, LLC and
De Mattheis Investments LLC*

/s/ Rachel R. Hager
RACHEL R. HAGER, ESQ.